

252 CMR 4.00

252 CMR 4.00: LIMITED LIABILITY PARTNERSHIPS AND LIMITED LIABILITY COMPLANIES

4.01: Definitions

4.02: Required Insurance and Capital Program

252 CMR 4.01: Definitions

As used in 252 CMR 4.00, unless the context otherwise requires:

Board, Licensee and Practice of Public Accountancy are defined in M.G.L. c. 112, § 87A.

Business Corporation refers to a corporation, as defined in M.G.L. c. 156B, § 2, licensed by the Board.

LLC refers to any “limited liability company” and “domestic limited liability company”, as defined in M.G.L. c. 156C, § 2(b)(5) and M.G.L. c. 112, § 87B1/2(~~be~~), licensed by the Board.

LLP refers to any “registered limited liability partnership” or “foreign registered limited liability partnership,” as defined in M.G.L. c. 108A, § 445(8), licensed by the Board.

Manager and Member are defined in M.G.L. c. 156C, § 2(b)(7) and (8), respectively.

Managing Partner or Agent refers to the person responsible for the proper registration of the firm with the board.

Supervision refers to the supervision of attest and compilation services provided by the office of the firm within the Commonwealth.

252 CMR 4.02: Required Insurance and Capital Program

(1) An LLP, Business Corporation, or LLC must maintain in good standing professional liability insurance which meets the following minimum standards:

(a) The insurance shall cover negligence, wrongful acts, errors and omissions and insure the LLP and the individual licensees who are partners or employees of the LLP, the LLC and the individual licensees who are members, managers or employees of the LLC, or the Business Corporation and the individual licensees who are employees, shareholders, officers or directors of the Business Corporation;

(b) The insurance shall be in an amount for each claim of at least \$100,000 multiplied by the number of individuals who are employed by, or partners of, the LLP; or the number of individuals who are employed by, or shareholders, officers or directors of, the Business Corporation, or the number of individuals who are employed by, or members or managers of, the LLC; and in an aggregate amount of at least \$300,000 multiplied by the number of individual licensees who are employed by, or partners of,

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the LLP; or the number of individuals who are employed by, or shareholders, officers or directors of, the Business Corporation; or the number of individuals, who are employed by, or managers or members of, the LLC;

(c) The requirements of 252 CMR 4.02 shall be satisfied if the LLP, Business Corporation, or LLC maintains insurance sufficient to provide coverage at a level of at least \$600,000 for each claim with an aggregate top limit of liability for all claims, during any one year, of at least \$2,000,000; and

(d) The insurance required by 252 CMR 4.02 may provide that it does not apply to: Any dishonest, fraudulent, criminal, or malicious act or omission of the insured LLP, Business Corporation, or LLC, or any individual licensee who is a partner, manager, member, shareholder, officer, director or employee thereof; or the conduct of any business enterprise not involving the practice of public accountancy in which the insured LLP, Business Corporation or LLC may hold an ownership interest or in which the insured LLP, or Business Corporation or LLC may be a partner or which may be controlled, operated, or managed by the insured LLP, Business Corporation or LLC, in its own or in a fiduciary capacity including the ownership, maintenance, or use of any property in connection therewith; and bodily injury to, or sickness, disease, or death of, any person, or to injury to or destruction of any tangible property, including the loss of use thereof. The policy may contain reasonable provisions with respect to policy periods, territory, claims, conditions, and other usual matters.

(2) Designated Segregated Capital Option for LLPs.

(a) The insurance required by 252 CMR 4.02(1) is not required if the LLP maintains designated and segregated capital equal to the amount of insurance required in 252 CMR 4.02(1)(b) or (c).

(b) An LLP shall be considered to be in compliance with 252 CMR 4.02(2)(a) if the LLP provides an amount of funds equal to the amount of insurance required in 252 CMR 4.02(1)(b) or (c), which funds must be specifically designated and segregated for the satisfaction of judgments against the LLP or its partners based on negligence, wrongful acts, errors and omissions, by:

1. deposit in trust or in bank escrow of cash, bank certificates of deposit, or United States Treasury obligations; or

2. a bank letter of credit or insurance company bond.

(3) (a) An LLP, Business Corporation or LLC must notify the Board in writing, within five business days, if its insurance coverage is canceled or otherwise interrupted, or if the LLP's designated and segregated capital falls below the amount required in 252 CMR 4.02(2)(a). Failure to provide required notice to the Board will subject the LLP and its partners, or the LLC and its managers or members, or

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the Business Corporation and its shareholders, officers or directors who are licensed by the Board to disciplinary action, pursuant to M.G.L. c. 112, § 87C1/2.

(b) At any time the LLP is not in compliance with 252 CMR 4.02, the LLP shall practice accountancy in the Commonwealth only as a general partnership until such time as the LLP is in compliance with 252 CMR 4.02. The LLP shall notify the Board, in writing, within five business days, that the LLP is in compliance with 252 CMR 4.02.

(c) In the event of cancellation or any other interruption in required insurance coverage for more than five business days, an LLC or Business Corporation may not practice public accountancy in the Commonwealth until such time as the LLC or Business Corporation is in compliance with 252 CMR 4.02.

(4) An LLP, Business Corporation or LLC may be required to provide verification of compliance with 252 CMR 4.02, satisfactory to the Board, on initial application, renewal, and at any other time, at the request of the Board.
